

IN THE HIGH COURT OF PUNJAB AND HARYANA AT  
CHANDIGARH

(286)

CRM-M-30149-2022

Date of decision: - 17.08.2022

Uday and others

....Petitioners

Versus

State of Haryana and others

.....Respondents

CORAM : HON'BLE MR. JUSTICE VIKAS BAHL

Present:- Mr. Rajiv Sharma, Advocate,  
for the petitioners.

Mr. Praveen Bhadu, AAG, Haryana.

Mr. Sylvester Stephen, Advocate  
for respondents No.2 to 6.

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**VIKAS BAHL, J. (ORAL)**

This is a second petition under Section 482 Cr.P.C. praying for quashing of FIR No.404 dated 25.07.2014 registered under Sections 148, 149, 323, 325, 452 at Police Station Gharaunda, Karnal as well as for setting aside the judgment dated 15.07.2019 and order of sentence dated 16.07.2019, passed by the Judicial Magistrate Ist Class, Karnal dated 16.07.2019, vide which all the petitioners have been convicted under Sections 148, 149, 323, 324 and 452 IPC, on the basis of compromise.

Learned counsel for the petitioners has submitted that the petitioners had earlier filed a quashing petition and at that time the compromise had not fructified, thus, the said petition was dismissed on

23.05.2022, however, liberty was granted to the petitioners to file a fresh petition in case the compromise was still effectual and the parties were ready to get their statements recorded in support of the compromise. It is further submitted that the present petition has been filed in pursuance of the said liberty granted thereunder and after the parties were ready to get their statements recorded. It is also submitted that in the present case, the above-said FIR was registered against 10 petitioners and the trial was conducted and vide judgment dated 15.07.2019 and order of sentence dated 16.07.2019, the petitioners were convicted as under: -

*"In these circumstances, this Court sentences the convicts as under: -*

| <i>Section</i>         | <i>Period of imprisonment</i>            | <i>Fine</i>   |
|------------------------|------------------------------------------|---------------|
| <i>148 IPC</i>         | <i>One year of rigorous imprisonment</i> |               |
| <i>149 IPC</i>         | <i>One year of rigorous imprisonment</i> |               |
| <i>323 r/w 149 IPC</i> | <i>Six months rigorous imprisonment</i>  | <i>---</i>    |
| <i>324 r/w 149 IPC</i> | <i>Two years rigorous imprisonment</i>   | <i>---</i>    |
| <i>325 r/w 149 IPC</i> | <i>Two years rigorous imprisonment</i>   | <i>1000/-</i> |
| <i>452 r/w 149 IPC</i> | <i>Two years rigorous imprisonment</i>   | <i>1000/-</i> |

4. *In default of payment of fine, convicts shall undergo Rigorous Imprisonment for a period of **one months**. Fine paid on behalf of the convicts. The period already undergone by the convicts during investigation and trial of this case, shall be set-off against the substantive sentences imposed upon them. All the sentences shall run concurrently. The period of custody, already spent by the convicts in this case, if any, shall be adjusted towards the sentence awarded to them.*

5. *The file is ordered to be consigned to record room after due compliance.*

***Pronounced in open Court.  
16.07.2019***

***(Harleen Pal Singh)  
Judicial Magistrate 1st Class  
Karnal."***

It is submitted that against the said judgment, a criminal appeal bearing CRA-482-2019 titled as "Uday etc. Vs. State" has been filed and the same is pending in the Court of Sessions Judge, Karnal. It is contended that after the filing of the said appeal, a compromise has been effected between the parties and thus, the said compromise is genuine and bona fide and will help in bringing out peace and amity between the parties. On the aspect of the maintainability of the present petition, the petitioners has placed reliance upon the judgment dated 29.09.2021 of the Hon'ble Supreme Court of India in ***Criminal Appeal no.1489 of 2012*** titled as ***“Ramgopal & Anr. vs. The State of Madhya Pradesh”*** and connected matter and has prayed that the present petition be allowed.

Learned counsel for respondents No.2 to 6 has again reiterated that the matter has been compromised and respondents No.2 to 6 have no objection in case the FIR is quashed and the judgment of conviction is set aside.

Learned State counsel has opposed the present petition for quashing and submitted that in the present case, the petitioners have already been convicted for the offences as alleged in the FIR, thus, the present petition deserves to be dismissed.

On 18.07.2022, this Court was pleased to pass the following order:-

***“CRM-24261-2022***

*This is an application filed for grant of leave under Rule 3-A(i) of Chapter VI, Part B, Volume V of Punjab and Haryana High Court Rules and Orders to file the present petition.*

*In view of averments made in the application, the same is allowed and leave is granted under the aforesaid Rules and Orders to*

*file the present petition.*

**CRM-M-30149-2022**

*This is a second petition under Section 482 Cr.P.C. praying for quashing of FIR No.404 dated 25.07.2014 registered under Sections 148, 149, 323, 325, 452 at Police Station Gharaunda, Karnal and order of conviction against the petitioners passed by the Judicial Magistrate Ist Class dated 16.07.2019, on the basis of compromise.*

*Learned counsel for the petitioners has submitted that the appeal bearing No.CRA-482-2019 against the conviction order dated 16.07.2019 is pending before the Sessions Judge, Karnal and has relied upon the judgment of the Hon'ble Supreme Court of India in **Criminal Appeal no.1489 of 2012** titled as "**Ramgopal & Anr. vs. The State of Madhya Pradesh**" and connected matter dated 29.09.2021.*

*Learned counsel for the petitioners has further submitted that all the persons concerned are party to the compromise.*

*Notice of motion for 17.08.2022.*

*On the asking of the Court, Mr.Bhupender Singh, DAG, Haryana, accepts notice on behalf of respondent no.1.*

*The parties are directed to appear before the Illaqa Magistrate/trial Court for recording their statements qua compromise within a period of three weeks.*

*The Illaqa Magistrate/trial Court is directed to submit a report on or before the next date of hearing containing the following information:-*

- 1. Number of persons arrayed as accused.*
- 2. Whether any accused is proclaimed offender?*
- 3. Whether the compromise is genuine, voluntary and without any coercion or undue influence?*
- 4. Whether the accused persons are involved in any other FIR or not?*
- 5. The trial Court is also directed to record the statement of the Investigating Officer as to how many victims/complainants are there in the FIR."*

In pursuance of the said order, the report has been submitted  
by the Judicial Magistrate 1st Class, Karnal to the Registrar General

(Criminal) of this Court. The relevant part of the report is reproduced hereinbelow:-

*“4. Here it is pertinent to mention that following information is also sought by Hon'ble High Court:*

*1.) Ques: Number of persons arrayed as accused.*

*Ans. There were total 10 accused and amongst them one has died.*

*2.) Ques: Whether any accused is proclaimed offender?*

*Ans. No accused is stated to be proclaimed offender in the present case as per the statement.*

*3.) Ques: Whether the compromise is genuine, voluntary and without any coercion or undue influence?*

*Ans. After going through the statements of the parties and after enquiring from the I.O., I am of the view that the compromise has been arrived between the complainant party and accused persons voluntarily without any threat, pressure, undue influence or fraud. Thus in my considered opinion the compromise arrived at between the two sides is genuine and voluntary act of the parties and the complainant/victims have no objection in quashing of FIR registered against the accused persons on the complaint. Hence the compromise is genuine.*

*4.) Ques: Whether the accused persons are involved in any other FIR or not?*

*Ans. As per the statement none of the accused are not involved in any other FIR.*

*5.) Ques: The trial Court is also directed to record the statement of the Investigating Officer as to how many victims/complainants are there in the FIR.*

*Ans. As per the statement of the Investigating Officer there are five victims including complainant.*

*5. Hence, the requisite report, alongwith the original statements of parties, is being submitted as desired, please.*

*Submitted please.*

(Archana)  
Judicial Magistrate 1st Class,  
Karnal. UID No.HR0394"

A perusal of the said report would show that the statements of the concerned persons have been recorded in the case, who have stated that the matter has been compromised and they have no objection in case the present petition is allowed. They have further stated that the said compromise is being entered into with there genuine, voluntarily and without any coercion or undue influence. It has been further stated that one of the petitioner had died.

Learned counsel for the petitioners has submitted that the petitioners have not been declared proclaimed offender. It is further stated that petitioner No.8, namely, Ram Pal has died after the filing of the present petition. Learned counsel for the State, as per instructions, has stated that this fact is correct.

Learned counsel for respondents No.2 to 6 has again reiterated that the matter has been settled and the said compromise is in the interest of all the persons and would help in bringing out peace and amity between the parties.

This Court has heard learned counsel for the parties and has gone through the paper-book.

The Hon'ble Supreme Court of India in "**Ramgopal and Anr.'s case (supra)**" has discussed in detail the powers of the High Court under Section 482 Cr.P.C. along with other ancillary issues. The relevant portion of said judgment is reproduced hereinbelow:-

"2. The prosecution version, arising out of FIR dated 3rd November 2000, Police Station Ambah, Morena, M.P. is that on

*account of certain monetary dispute, the Appellants abused and assaulted Padam Singh (Complainant). Appellant No.1 is alleged to have struck the Complainant with a pharsa , which resultantly cut off the little finger of his left hand. Appellant No.2 also struck lathi blows on the body of the Complainant. Appellants were thereafter committed for trial under Sections 294, 323 and 326 read with 34 of Indian Penal Code, 1860 (hereinafter, 'IPC') and Section 3 of the Prevention of Atrocities (Scheduled Caste and Scheduled Tribes) Act, 1989. Upon analyzing the evidence, the Learned Judicial Magistrate(FC), Ambah, convicted the Appellants under Sections 294, 323 and 326 read with 34 IPC with a maximum sentence of three years under Section 326 read with 34 IPC.*

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*12. The High Court, therefore, having regard to the nature of the offence and the fact that parties have amicably settled their dispute and the victim has willingly consented to the nullification of criminal proceedings, can quash such proceedings in exercise of its inherent powers under Section 482 Cr.P.C., even if the offences are non compoundable. The High Court can indubitably evaluate the consequential effects of the offence beyond the body of an individual and thereafter adopt a pragmatic approach, to ensure that the felony, even if goes unpunished, does not tinker with or paralyze the very object of the administration of criminal justice system.*

*13. It appears to us that criminal proceedings involving non-heinous offences or where the offences are predominantly of a private nature, can be annulled irrespective of the fact that trial has already been concluded or appeal stands dismissed against conviction. Handing out punishment is not the sole form of delivering justice. Societal method of applying laws evenly is always subject to lawful exceptions. It goes without saying, that the cases where compromise is struck post conviction, the High Court ought to exercise such discretion with rectitude, keeping in view the circumstances surrounding the incident, the fashion in which the compromise has been arrived at, and with due regard to the nature and seriousness of the offence, besides the conduct of the accused, before and after the incidence. The touchstone for exercising the extraordinary power under Section 482 Cr.P.C. would be to secure the ends of justice.*

*There can be no hard and fast line constricting the power of the High Court to do substantial justice. A restrictive construction of inherent powers under Section 482 Cr.P.C. may lead to rigid or specious justice, which in the given facts and circumstances of a case, may rather lead to grave injustice. On the other hand, in cases where heinous offences have been proved against perpetrators, no such benefit ought to be extended, as cautiously observed by this Court in Narinder Singh & Ors. vs. State of Punjab & Ors. and Laxmi Narayan (Supra).*

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19.    *We thus sum-up and hold that as opposed to Section 320 Cr.P.C. where the Court is squarely guided by the compromise between the parties in respect of offences ‘compoundable’ within the statutory framework, the extraordinary power enjoined upon a High Court under Section 482 Cr.P.C. or vested in this Court under Article 142 of the Constitution, can be invoked beyond the metes and bounds of Section 320 Cr.P.C. Nonetheless, we reiterate that such powers of wide amplitude ought to be exercised carefully in the context of quashing criminal proceedings, bearing in mind: (i) Nature and effect of the offence on the conscious of the society; (ii) Seriousness of the injury, if any ; (iii) Voluntary nature of compromise between the accused and the victim; & (iv) Conduct of the accused persons, prior to and after the occurrence of the purported offence and/or other relevant considerations.”*

A perusal of the abovesaid judgment would show that it has been held that the extra ordinary power enjoined upon a High Court under Section 482 Cr.P.C. can be invoked beyond the metes and bounds of Section 320 Cr.P.C. It has further been observed that criminal proceedings involving non heinous offences can be annulled irrespective of the fact that trial has already been concluded and appeal stands dismissed against conviction and that handing out punishment is not the sole form of delivering justice. Thus, it goes without saying, that the cases where compromise is struck post conviction, the High Court ought to

exercise such discretion with rectitude, keeping in view the circumstances surrounding the incident. A Coordinate Bench of this Court in ***Ram Parkash's case (supra)***, had allowed a petition under Section 482 Cr.P.C. under similar circumstances. The relevant portion of the said judgment is reproduced hereinbelow:

*“Prayer in this petition filed under Section 482 Cr.PC is for quashing of the FIR No.225, dated 24.08.2005 (Annexure P-1) under Sections 323, 324, 452, 506, 148 and 149 IPC (subsequently added Section 308 and 336 IPC), registered at Police Station Sadar Nawanshahar, District-Nawanshahar, on the basis of compromise dated 06.02.2015(Annexure P-4) and all other subsequent proceedings arising therefrom including the judgment of conviction and order of sentence, both dated 25.09.2013 passed by the learned Addl. Sessions Judge, Shaheed Bhagat Singh Nagar, whereby the accused-petitioners, were convicted and sentenced...*

*xxx—xxx—xxx*

*Quashing of the aforesaid FIR and setting aside of the impugned judgment and order of sentence dated 25.09.2013 passed by the learned Addl. Sessions Judge, Shaheed Bhagat Singh Nagar, is sought on the basis of compromise dated 06.02.2015 (Annexure P-4), entered into between the parties during the pendency of the appeal before this Court.*

*xxx--xxx—xxx*

*This Court in the case of **Sube Singh and another Versus State of Haryana and another 2013(4) RCR (Criminal) 102** has considered the compounding of offences at the appellate stage and has observed that even when appeal against the conviction is pending before the Sessions Court and parties entered into a compromise, the High Court is vested unparallel power under Section 482 Cr.PC to quash criminal proceedings at any stage so as to secure the ends of justice and has observed as under:-*

*“15. The refusal to invoke power under Section 320 CrPC, however, does not debar the High Court from resorting to its inherent power under Section 482 Criminal Procedure Code and pass an appropriate order so as to secure the ends of justice.*

16. As regards the doubt expressed by the learned Single Judge whether the inherent power under Section 482 Criminal Procedure Code to quash the criminal proceedings on the basis of compromise entered into between the parties can be invoked even if the accused has been held guilty and convicted by the trial Court, we find that in **Dr. Arvind Barsaul etc. v. State of Madhya Pradesh & Anr., 2008(2) R.C.R. (Criminal) 910 : (2008)5 SCC 794**, the unfortunate matrimonial dispute was settled after the appellant (husband) had been convicted under Section 498A Indian Penal Code and sentenced to 18 months' imprisonment and his appeal was pending before the first appellate court. The Apex Court quashed the criminal proceedings keeping in view the peculiar facts and circumstances of the case and in the interest of justice observing that "continuation of criminal proceedings would be an abuse of the process of law" and also by invoking its power under Article 142 of the Constitution. Since the High Court does not possess any power akin to the one under Article 142 of the Constitution, the cited decision cannot be construed to have vested the High Court with such like unparallel power.

17. The magnitude of inherent jurisdiction exercisable by the High Court under Section 482 Criminal Procedure Code with a view to prevent the abuse of law or to secure the ends of justice, however, is wide enough to include its power to quash the proceedings in relation to not only the non compoundable offences notwithstanding the bar under Section 320 Criminal Procedure Code but such a power, in our considered view, is exercisable at any stage save that there is no express bar and invoking of such power is fully justified on facts and circumstances of the case.

18.               xxx     xxx

19.               xxx     xxx

20.               xxx     xxx

21. In the light of these peculiar facts and circumstances where not only the parties but their close relatives (including daughter and son-in-law of respondent No.2) have also supported the amicable settlement, we are of the considered view that the negation of the compromise would disharmonize the relationship and cause a permanent rift amongst the family members who are living together as a joint family. Non acceptance of the compromise would also lead to

*denial of complete justice which is the very essence of our justice delivery system. Since there is no statutory embargo against invoking of power under Section 482 Criminal Procedure Code after conviction of an accused by the trial Court and during pendency of appeal against such conviction, it appears to be a fit case to invoke the inherent jurisdiction and strike down the proceedings subject to certain safeguards.*

*22. Consequently and for the reasons afore-stated, we allow this petition and set aside the judgement and order dated 16.03.2009 passed in Criminal Case No. 425-1 of 2000 of Additional Chief Judicial Magistrate, Hisar, on the basis of compromise dated 08.08.2011 arrived at between them and their step-mother respondent No.2 (Smt. Reshma Devi) w/o late Rajmal qua the petitioners only. As a necessary corollary, the criminal complaint filed by respondent No.2 is dismissed qua the petitioners on the basis of above-stated compromise.*

*Resultantly, the appeal preferred by the petitioners against the above-mentioned order dated 16.03.2009 would be rendered infructuous and shall be so declared by the first Appellate Court at Hisar.”*

*Similarly, in the case of **Baghel Singh Versus State of Punjab 2014(3) RCR (Criminal) 578**, whereby the accused was convicted under Section 326 IPC and was sentenced to undergo rigorous imprisonment for two years, the parties entered into compromise during the pendency of the appeal. This Court while relying upon the judgment of **Lal Chand Versus State of Haryana, 2009 (5) RCR (Criminal) 838** and **Chhota Singh Versus State of Punjab 1997(2) RCR (Criminal) 392** allowed the compounding of offence in respect of offence under Section 326 IPC at the appellate stage with the observation that it will be a starting point in maintaining peace between the parties, such offence can be compounded.*

*xxx—xxx—xxx*

*Accordingly, FIR No.225, dated 24.08.2005 (Annexure P-1) under Sections 323, 324, 452, 506, 148 and 149 IPC(subsequently added Section 308 and 336 IPC), registered at Police Station Sadar Nawanshahar, District-Nawanshahar and all subsequent proceedings arising therefrom, qua the accused petitioners, are quashed, on the*

*basis of compromise dated 06.02.2015 (Annexure P-4), subject to payment of costs of Rs.25,000/-, to be deposited with the Punjab State Legal Services Authority, Chandigarh.*

*Consequently, the judgment of conviction and order of sentence, both dated 25.09.2013 passed by the learned Addl. Sessions Judge, Shaheed Bhagat Singh Nagar, are set aside subject to payment of cost.”*

A Co-ordinate Bench of this Court in a judgment dated 09.03.2017 passed in CRR no.390 of 2017 titled as **“Kuldeep Singh vs. Vijay Kumar and another”** has held as under:-

*“Reliance can be placed on **Kaushalya Devi Massand vs. Roopkishore Khore, 2011 (2) RCR (Criminal) 298** and **Damodar S. Prabhu vs. Sayed Babalal, AIR 2010 (SC) 1097**. The revisional jurisdiction of the High Court in terms of Section 401 Cr.P.C. would result in bringing about ends of justice between the parties in the event of finding that the compromise is genuine, bonafide and free from any undue influence.*

*The compromise in question would serve as a everlasting tool in favour of the parties for which indulgence can be given by this Court. The revisional exercise would also be in consonance with the spirit of Section 147 of Negotiable Instruments Act.*

*The principle as laid down in **Damodar S. Prabhu vs. Sayed Babalal, AIR 2010 (SC) 1097**, would be squarely fortified if the compromise in question is allowed to be effected between the parties with leave of the Court.*

*In view of aforesaid, impugned judgment dated 19.01.2017 passed by Additional Sessions Judge, Sri Muktsar Sahib vide which conviction and sentence of the petitioner was upheld stands quashed.*

*The revision petition is allowed subject to deposit of 15% of the cheque amount as per ratio laid down in **Damodar S. Prabhu's case (supra)** to State Legal Services Authority, failing which this order will be of no consequence. Necessary consequences to follow.”*

Reliance in the abovesaid judgment was also placed upon the judgment of the Hon'ble Supreme Court in **Damodar S. Prabhu's** case

(*supra*) and thus, as per settled law, this Court has the power to set aside the judgment of conviction against the petitioner on the basis of a valid compromise. The compromise in the present case is genuine and valid.

Keeping in view the law laid down in the abovesaid judgments, more so, the judgment of the Hon'ble Supreme Court of India in *Ramgopal & Anr's case (supra)*, the relevant parameters for consideration as laid down by the said judgment, would be considered by this Court. Firstly, the occurrence which is involved in the present petition can be categorized as a purely personal / criminal act of private nature. Secondly, the injuries which have been caused have not been declared to be dangerous to life and do not appear to exhibit element of mental depravity or commission of an offence of such a serious nature, that quashing the criminal proceedings of such like cases would override public interest. Thirdly, in view of the injuries and the offence, it would be immaterial that the petitioners have been convicted by the Judicial Magistrate Ist Class, Karnal. Fourthly, the compromise is without any coercion or compulsion and has been entered into willingly and voluntarily as per the report of Judicial Magistrate Ist Class, Karnal. Fifthly, the occurrence took place in the year 2014 and there is nothing to show that any untoward incident has taken place after the same. Sixthly, the object of administration of the criminal justice system would remain unaffected on acceptance of the said amicable settlement between the parties and /or resultant acquittal of the petitioners.

Thus, keeping in view the above-said facts and circumstances, the present petition is allowed and FIR No.404 dated

25.07.2014 registered under Sections 148, 149, 323, 325, 452 at Police Station Gharaunda, Karnal and all the subsequent proceedings arising therefrom including judgment dated 15.07.2019 and order of sentence dated 16.07.2019, passed by the Judicial Magistrate Ist Class, Karnal, are set aside/quashed, qua the petitioners.

August 17, 2022  
naresh.k

( VIKAS BAHL )  
JUDGE

|                            |        |
|----------------------------|--------|
| Whether reasoned/speaking? | Yes/No |
| Whether reportable?        | Yes/No |